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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,703	06/22/2006	Anthony Morel	BWAC-30542	9744
27883	7590	12/21/2010		
GRADY K. BERGEN 3333 LEE PARKWAY SUITE 600 DALLAS, TX 75219			EXAMINER MCCORMICK, GABRIELLE A	
			ART UNIT 3629	PAPER NUMBER
			NOTIFICATION DATE 12/21/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

MAIL@INVENTLEGAL.COM  
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<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/596,703		MOREL, ANTHONY	
	<b>Examiner</b>		<b>Art Unit</b>	
	Gabrielle McCormick		3629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 November 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-24 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/19/2010</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is in reply to the amendment filed on November 19, 2010.
2. Claims 17, 21 and 26 have been amended.
3. Claim 25 has been canceled.
4. Claims 17-24 and 26 are currently pending and have been examined.

### ***Information Disclosure Statement***

5. The Information Disclosure Statement filed on November 19, 2010 has been considered. An initialed copy of the Form 1449 is enclosed herewith. Note: NPL labeled "AA" was not considered because the reference was not legible.

### ***Objection to the Drawings***

6. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Previous Claim Objections***

Applicant's amendments to claims 17 and 26 overcome the previous objections. The objections are withdrawn.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 17, 21 and 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
9. Applicant has amended the claims to incorporate the following limitations: a data processing machine...to match; a user profile held in storage in the broadcast data receiver; obtaining an alert characteristic from the broadcast data receiver; using the data processing machine to provide a weighting or determine an alert level and user profile updating software.
10. Fig. 2 discloses the system, however, the "Information receiving means" (understood as the claimed "broadcast receiver") is not disclosed as providing a data processing machine or holding a user profile storage means (this is a separate component, 110). Nor is the alert characteristic obtained from the broadcast receiving means. Fig. 2 shows an alert processing means that is connected to the Information receiving means. The specification from page 6-7 only provides support for various "means" however, the structure of the "means" is not clear and therefore cannot be understood to be as specific as comprising a data processing machine. The disclosure at pg. 6 regarding the information receiving means in the context of receiving broadcast and television information is understood to comprise a broadcast data receiver. The matching means performs the matching, not as claimed, the data processing machine. Further, the content alert processing means provides the alert and the sieving means provides the recommendation, not the broadcast data receiver.
11. The Examiner understands that Applicant amended claims 17 and 21 to overcome the previous rejections under 35 U.S.C. 101. The Examiner suggests that the Applicant use the terminology

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provided in the disclosure (i.e., the matching means, content alert processing means, etc.) to tie the invention to a particular machine.

***Previous Claim Rejections - 35 USC § 101***

12. Applicant's amendments to claims 17, 21 and 26 overcome the previous rejections. The rejections are withdrawn.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 17-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US Pat. No. 6,029,195) in view of Linden et al. (US Pat. No. 6,266,649, hereinafter referred to as "Linden").
15. **Claim 17:** Herz discloses the system components (Fig. 2) for:
- Receiving content information including a particular information characteristic (C4; L51-53: target object profile with attributes)
  - Matching said content information with a user profile to obtain a comprehensive degree of interest (C19; L29-31)
  - Obtaining an alert characteristic and determining a comprehensive alert level based on parameters of the alert characteristic (C13; L19-23: numeric evaluations from MPAA is alert characteristic; C10; L58-60: alert level is determined ("0=G, 1=PG,..."))
  - Weighting by the comprehensive alert level (C22; L15-44: each attribute is weighted to specify importance; user assigns a "vulgarity score")
  - Recommending corresponding information to the user according to the weighted comprehensive degree of interest. (C7; L8-18 and C22; L29-44)

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16. In Herz, the weighting is performed as part of the generation of the comprehensive degree of interest.
17. Linden discloses that a similar items lists (i.e., a list of potentially recommendable objects) is weighted by multiplying the commonality index value by a weighting value to produce "scores". The list is then filtered to remove unwanted items based on a content rating (such as PG or adult). (C11; L16-37). Thus, Linden discloses the step of weighting after a first calculation is made based on the content of the objects.
18. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included weighting objects after performing a first calculation, as disclosed by Linden in the system disclosed by Herz, for the motivation of providing a method of enabling filtering based on the weighted "vulgarity score" disclosed by Herz.
19. **Claims 18, 19 and 20:** Herz discloses particular program information and keywords (C11; L8-26) and alert characteristics including age (C10; L60) and vulgarity (C22; L40-44).

### ***Allowable Subject Matter***

20. Claims 21-24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, as set forth in this Office action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is (571) 270-1828. The examiner can normally be reached on Monday - Thursday (5:30 - 4:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jamisue Plucinski can be reached on (571) 272-6811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gabrielle McCormick/  
Examiner, Art Unit 3629